

LEONARD SMITH.

[To accompany bill H. R. No. 145.]

MARCH 5, 1840.

Mr. HAND, from the Committee on Revolutionary Pensions, submitted the following

REPORT:

*The Committee on Revolutionary Pensions, to which was referred the petition of Leonard Smith, of the county of Orange, in the State of New York, for a pension, report:*

That this case appears to have been twice reported favorably upon by committees of this House. Your committee, fully concurring in that report, adopt the same, and ask leave to report a bill in conformity thereto.

"It satisfactorily appears to your committee, by the evidence accompanying this petition, that the applicant is about eighty-five years of age; that he engaged in the military service of the country, in the war of the revolution, in the month of September, 1775, and continued to serve therein, with intermissions of short periods only, until the winter of 1780; that he first entered such service in the month aforesaid, as the ensign of a company of militia, raised in the town of Marlborough, in the county of Ulster, in the said State, which was commanded by Captain Silas Purdy, and attached to Colonel Thomas Palmer's regiment; and that he occasionally performed military service, as he was required, in the capacity aforesaid, from the said month of September until the month of February following, when he was detached for regular duty in the erection of fortifications at Fort Montgomery, which he continued to perform until the latter part of the month of May following, when he was discharged from service.

"That in the month of June, 1776, he was commissioned 2d lieutenant of a company commanded by Captain Samuel Clark, which volunteered to serve against the enemy for the period of five months; and that he continued in actual service, as such lieutenant, from the said month of June, until the month of January, 1777, when he was honorably discharged.

"It further appears, to the satisfaction of the committee, that in the month of March, 1777, the applicant was solicited by General George Clinton to raise a company of volunteers, under the assurance that, if he would enlist a certain number of men, and enter the service for three years, he should receive a captain's commission. He did procure a greater number of volunteers, was commissioned as a captain in the month of June in that year, and performed military duty in that capacity, from that time until the winter of the year 1780, when he was honorably discharged.

"There is also evidence that the applicant rendered other valuable military service for short periods during the same war, but the committee have not taken that into their consideration in deciding upon the merits of the application.

"The applicant exhibits his commission as lieutenant, but makes oath that he is unable to produce that of his captaincy, because it was, with the other papers relating to his service, destroyed by the fire which consumed the barracks at West Point, in the year 1782; and as a reason for not furnishing any record evidence of such commission, he has presented a letter from the comptroller of the State of New York, stating that, on examining the minutes of the convention of that State, he does not find any resolution appointing the said Leonard Smith to a captaincy, and suggesting that 'the appointments were probably made by a military committee, and did not appear upon the minutes of the convention.'

"Upon this proof your committee have felt themselves warranted in receiving secondary evidence of the commission and service, which has resulted in the conviction already expressed.

"The petitioner has made his application to the department for a full pension as captain, under the law of 1832. It was rejected there, on the ground that it was not sustained by such proof as the established rules and regulations of that department required. The following extract from a letter dated 1st December, 1836, addressed by the Commissioner of Pensions to the honorable John W. Brown, then a member of the House of Representatives, communicating the rejection of this and another claim, will show more particularly the ground upon which such rejection was placed:

"In my previous correspondence with you, to which you are respectfully referred, the difficulties were particularly pointed out as arising more from the rules for an official adjustment of claims under the particular act, than from any doubt as to their general merit; and it was accordingly suggested that these cases constituted a fit subject for the equitable provision of a special law. Nothing has occurred to change that view of these claims, and I beg leave to renew the suggestion. It is certainly very desirable that all claims embraced by the general provisions of an act should be adjusted by the department, instead of referring them back to Congress, and every disposition is felt to dispose of these cases favorably in the department; but I feel persuaded that a review of our correspondence will satisfy you of its impracticability, without abandoning rules of the highest importance in the execution of the act of the 7th June, 1832."

"Your committee, upon full consideration of all the testimony connected with this case, concur in the opinion that it calls for the special interposition of Congress for the relief of the petitioner; and they ask leave to report a bill for that purpose."

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